

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 16th day of June, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition No. 4497 of 1993

Dada Ahamed Sait,
Muslim, r/a No.39/1,
R.V. Road, Opposite to
Vijaya College,
Bangalore-560 004

g/ ..Petitioner

(By Sri G.S. Srikanteswaran, Advocate)

-Vs-

1. The State of Karnataka,
by its Secretary,
Housing and Urban Development
Vidhana Soudha, Bangalore-1;
2. The Commissioner,
Corporation of City of Bangalore,
Bangalore;
3. The Chairman,
Taxation Appeal Committee,
Corporation of City of Bangalore,
Bangalore;
4. The Assistant Revenue Officer,
Basavanagudi,
Corporation of City of
Bangalore,
Basavanagudi,
Bangalore

.. Respondents

(By Sri Muniyappa, Adv., for R2 to R4;
R1 deleted)

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Writ Petition is filed praying to quash the distraint notice issued by the fourth respondent on 31-1-1993 to the petitioner, vide Annexure-H etc.

This writ petition coming on for preliminary hearing in 'B' group this day, the Court made the following:-

O R D E R

The learned Counsel for the petitioner seeks permission to delete first respondent as no relief is sought against it. Permitted. First respondent is accordingly deleted.

2. The petitioner claims to be the owner of premises No.39/1, R.V.Road, Bangalore. The annual rental value of the said premises was revised as Rs.22,000/- with effect from 1-4-1987 as per Annexure-A dated 31-8-1987. Again by another special notice dated 6-4-1989 [Annexure-B], the Bangalore City Corporation revised the annual value from Rs.22,000/- to Rs.35,000/-. By a subsequent special notice dated 26-6-1992 [Annexure-E], the Corporation again revised the annual value from Rs.35,000/- to Rs.35,000/- (residential) and Rs.23,000/- (nonresidential) and consequently increased the aggregate of the taxes and cesses from Rs.9,170/- to Rs.16,702-50 with effect from 1-10-1991. Feeling aggrieved, the petitioner filed

Rmr

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his objections on 14-9-1992. In reply, the Corporation has issued an endorsement dated 27-10-1992 stating that the objections have been filed belatedly and, therefore, the same will be considered if tax upto 30-9-1992 is paid. This is followed by a demand notice under Section 147 read with Rule 27 of Schedule III of the Karnataka Municipal Corporations Act, demanding a sum of Rs.20,468-75 i.e., Rs.3,766-25 for 1991-92 and Rs.16,702-50 for 1992-93, vide Annexure-H. Feeling aggrieved, the petitioner has filed this petition and sought quashing of Annexure-H.

3. This Court, on 12-2-1993, has stayed further action in pursuance of Annexure-H.

4. The learned Counsel for the respondents contended that the petitioner did not file objections within thirty days from the date of receipt of Annexure-E dated 26-6-1992 and, therefore, the respondents were justified in insisting of payment of the tax before consideration of the objections.

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5. The endorsement dated 27-10-1992 discloses the readiness of the Corporation to consider the objections of the petitioner. Once it is agreeable to consider the objections, it ought not to have imposed a condition that the taxes upto 30-9-1992 should be paid before considering the objections. Hence, interest of justice will be served if the Corporation is required to consider the objections and pass appropriate orders in accordance with law and in the meanwhile directing the petitioner to make part payment towards the taxes.

6. The petition is, therefore, disposed of with the following directions:-

(a) The petitioner is permitted to file detailed objections to the special notice vide Annexure-E, in addition to the objections filed on 14-9-1992, within fifteen days from this date;

(b) The second respondent or his ^{authorised} delegate shall consider such objections and pass appropriate orders, within one month from that date;

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(c) Until such determination, the respondents shall not enforce recovery of the amount claimed under Annexure-H, subject to petitioner paying the taxes and cesses as determined in Annexure-B dated 6-4-1989 i.e., at the rate of Rs.9,170/- per annum.



Bnr/-

Sd/-
JUDGE